

2011 APR 20 AM 11:00

JEANNE HICKS, CLERK

BY: *Stephanie Kling*

BRAD D. BRIAN (CA Bar No. 079001, *pro hac vice*)  
Brad.Brian@mto.com  
LUIS LI (CA Bar No. 156081, *pro hac vice*)  
Luis.Li@mto.com  
TRUC T. DO (CA Bar No. 191845, *pro hac vice*)  
Truc.Do@mto.com  
MIRIAM L. SEIFTER (CA Bar No. 269589, *pro hac vice*)  
Miriam.Seifter@mto.com  
MUNGER, TOLLES & OLSON LLP  
355 South Grand Avenue, Thirty-Fifth Floor  
Los Angeles, CA 90071-1560  
Telephone: (213) 683-9100

THOMAS K. KELLY (AZ Bar No. 012025)  
tskelly@kellydefense.com  
425 E. Gurley  
Prescott, Arizona 86301  
Telephone: (928) 445-5484

Attorneys for Defendant JAMES ARTHUR RAY

SUPERIOR COURT OF STATE OF ARIZONA  
COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

JAMES ARTHUR RAY,

Defendant.

CASE NO. V1300CR201080049

Hon. Warren Darrow

DIVISION PTB

**DEFENDANT JAMES ARTHUR RAY'S  
MOTION FOR SANCTIONS PURSUANT  
TO RULE 15.7 BASED ON VIOLATION  
OF *BRADY V. MARYLAND***

Defendant James Arthur Ray, by and through undersigned counsel, hereby moves this Court to order sanctions pursuant to Ariz. R. Crim. P. 15.7. This motion is supported by the following Memorandum of Points and Authorities.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 On April 13, 2011, this Court found that the State had violated its constitutional duty  
4 under *Brady v. Maryland* by suppressing exculpatory evidence material to Mr. Ray's defense.  
5 The Court denied Mr. Ray's request for a mistrial "[a]t the present time." On April 14, the Court  
6 granted Mr. Ray's motion for a continuance to investigate the issues related to Mr. Haddow's  
7 report. On April 14 and 15, Mr. Haddow and the State disclosed documents related to Mr.  
8 Haddow's involvement in this case, and the parties jointly interviewed Mr. Haddow on April 15.

9 The interview of Mr. Haddow, and the documents now disclosed by both Mr. Haddow and  
10 the State, reveal a *Brady* violation more substantial than the State initially let on to the Defense  
11 and the Court. In its Response to Defendant's Motion for Mistrial, the State represents that it had  
12 two contacts with Mr. Haddow -- the first when Mr. Haddow sent his report on April 29, 2010  
13 and the second when the State conducted a "brief interview" of Mr. Haddow. Although at oral  
14 argument the State referenced a possible additional contact, the State's pleadings, filed with this  
15 Court, reveal no other communications. Yet Mr. Haddow's records reveal that *the State's*  
16 *relationship with Mr. Haddow dates back to October 2009*. Moreover, as detailed in Mr.  
17 Haddow's Communications Log, attached as Exhibit A, the relationship involved numerous  
18 telephone conversations and an extensive in-person meeting. In addition, on June 30, 2010, the  
19 State conducted an hour-long interview of Mr. Haddow, in which the attorneys and the  
20 prospective witness discussed additional exculpatory facts not included in the April 29 email.

21 These disclosure violations constitute a pattern of suppression that prejudices Mr. Ray's  
22 Defense. Indeed, it cannot escape mention that the Defense learned of still further disclosure  
23 violations, related to Dr. A.L. Mosley's testing and opinions, as this motion was being drafted.  
24 *See infra* II. D. Mr. Ray cannot receive the fair trial the Constitution requires when the  
25 government continuously violates the mandatory discovery rules.

26 Under Rule 15.7(a), the Court "shall impose any sanction it finds appropriate" based on a  
27 party's disclosure violation. Here, the fact of the State's mischaracterizations to this Court, the  
28 existence of additional *Brady* material that the State suppressed, and the State's *continuing* failure

1 to disclose evidence regarding causation, all reinforce the propriety of sanctions. The Court  
2 should grant the Defense's request of April 14 to give proposed jury instructions, and should  
3 order any additional sanction the Court deems appropriate.

## 4 **II. STATEMENT OF FACTS AND APPLICABLE LAW**

### 5 **A. The State has been in extensive contact with Mr. Haddow since October 2009.**

6 First, the State's *Brady* violation regarding Mr. Haddow is tied to a working relationship  
7 far more extensive than the State let on in its briefing and oral argument. The briefing  
8 represented that the State had only two contacts with Mr. Haddow: once when Haddow sent the  
9 4/29/10 email, and once when the State later conducted a "brief interview" with Haddow. State's  
10 Response at 2, 4. According to the Response, the State "anticipated providing materials to Mr.  
11 Haddow to review if the State retained him." *Id.* at 2. But "[u]ntil that time, and to this date, the  
12 only information the State received from Rick Haddow was the [4/29/10] email." *Id.* at 4. At  
13 oral argument, Mr. Hughes "clarified" that Detective Diskin may have had another contact with  
14 Mr. Haddow prior to the grand jury presentation. *See* Exhibit B, Draft Trial Transcript, 4/13/11,  
15 at 40–41.<sup>1</sup> The following day, while the parties reached agreement on additional discovery,  
16 Detective Diskin stated to the Defense team, in the presence of the prosecutors and the Bailiff,  
17 that the contact prior to the grand jury presentation occurred when Haddow showed up at  
18 Detective Diskin's office unannounced with papers for the detective to review.

19 Contrary to the State's representations, Haddow described his relationship with the State  
20 as one in which he was "working closely with Detective Diskin" and "being provided all the  
21 interviews, photos and working documents." Exhibit C, Letter from Rick Haddow to Lou Diesel,  
22 4/27/10, at Bate Stamp Defense 0000085.<sup>2</sup> Haddow's account, in fact, indicates a lengthy and  
23

24  
25 <sup>1</sup> MR. HUGHES: "We had indicated that Detective Diskin had a first conversation the first learned about  
26 [Haddow] shortly or some time after the indictment. Last night the detective was reviewing the indictment.  
Discovered he actually mentioned to the grand jury that he had spoken to the environmental quality expert.  
So I did want to set that straight as far as I believe that was on page 2 of the states response."

27 <sup>2</sup> The State knew from the beginning—and certainly when they disclosed Mr. Haddow as an expert in  
28 October 2010—that he had been recommended to the prosecution by Lou Diesel, the civil attorney for the  
plaintiffs. This is impeachment evidence and thus *Brady* material, yet the State did not disclose it.

1 involved relationship with Detective Diskin. Notes and emails from and between Haddow and  
2 the State chronicle communications of nearly 8 months, beginning twelve days after the incident:

- 3 • **October 20, 2009:** Haddow first contacted and spoke with Detective Ross Diskin  
4 about the case. *See* Exhibit A, Haddow's Communications Log, at Bate stamp  
5 558.
- 6 • **October 21, 2009:** Haddow spoke with Detective Diskin and Diskin told Haddow  
7 he would provide him with the sweat lodge dimensions. *See* Exhibit A, Haddow's  
8 Communications Log, at 559.
- 9 • **February 2, 2010:** One day before the Grand Jury, Diskin told Haddow "they  
10 need help." Exhibit A, Haddow's Communications Log, at 573. In the interview,  
11 Haddow explained that "they" referred to the Sheriff's Office, which was  
12 apparently overwhelmed by the investigation. Detective Diskin also testified to  
13 the Grand Jury that "we're working on trying to determine [how hot it actually got  
14 inside the sweat lodge] .... I actually talked to a guy yesterday that is an air quality  
15 specialist or someone like that and he is looking into that, but there's a lot of  
16 variables, because we don't know exactly how long the door was open and things  
17 like that. So there are some variables, so it might be difficult to get the exact  
18 heat." Exhibit D, Grand Jury Transcript, at 112:5-11.
- 19 • **February 9, 2010:** Haddow spoke to Diskin and scheduled an appointment to  
20 meet Diskin in person on February 10, 2010. *See* Exhibit A, Haddow's  
21 Communications Log, at 573.
- 22 • **February 10, 2010:** Haddow met with Diskin and another unidentified detective  
23 for the scheduled 2-hour interview at the Yavapai County Sheriff's Office. *See*  
24 Exhibit A, Haddow's Communications Log, at 574. Haddow provided Diskin  
25 with a set of questions designed to obtain additional information about the  
26 incident. *See* Exhibit A, Haddow's Communications Log, at 574; *see also* Exhibit  
27 E, Bate stamp 452-455 (Haddow's questions). Diskin provided Haddow with  
28 diagrams and measurements of the scene and the sweat lodge structure at Angel

1 Valley. See Exhibit A, Haddow's Communications Log, at 574; see also Exhibit  
2 F, Bate stamp 456-463 (diagrams). Diskin also gave Haddow a CD containing  
3 nearly 300 photos of the scene and 130 supplemental reports containing witness  
4 statements. See Exhibit A, Haddow's Communications Log, at 574.<sup>3</sup>

- 5 • **March 5, 2010:** Haddow spoke with Diskin regarding "details about the case and  
6 work." See Exhibit A, Haddow's Communications Log, at 578.
- 7 • **March 17, 2010:** Haddow spoke with Diskin to obtain information about the  
8 characteristics of the rocks used to heat the sweat lodge environment. See Exhibit  
9 A, Haddow's Communications Log, at 580.
- 10 • **April 23, 2010:** Haddow drafted his preliminary opinions and conclusions (which  
11 later became the April 29, 2010 report emailed to Diskin, which the State  
12 suppressed for 11 months). See Exhibit A, Haddow's Communications Log, at  
13 584. After drafting his preliminary opinions and conclusions, Haddow had a 40-  
14 minute conversation with Diskin. See *id.* at 583.
- 15 • **April 29, 2010:** Haddow emailed Diskin with his "preliminary environmental  
16 investigation and analysis of the sweat lodge indoor air quality and environmental  
17 conditions as experienced by Liz Neuman." See Exhibit H, Bate stamp 8144-  
18 8146). Diskin forwarded Haddow's report to Sheila Polk, Bill Hughes, Kathy  
19

---

20 <sup>3</sup> Haddow denies Detective Diskin's account that Haddow ever dropped by Diskin's office unannounced:

21 DO: Okay. At any point during the beginning of your relationship with  
22 Detective Diskin did you rather than calling him just show up to the  
Sheriff's office unannounced without an appointment?

23 HADDOW: Never.

24 DO: Did you at any point without calling him as you indicated on October 20,  
25 2009 just show up to the Sheriff's office with a bunch of papers that you  
put in front of Detective Diskin?

26 HADDOW: No.

27 Exhibit G, Transcript of Interview of Richard Haddow, 4/15/11, at 13:12-19.  
28

1 Durrer, Penny Cramer, and Detective Mike Poling within an hour of receiving  
2 Haddow's report and stated "[h]ere are the *results* of the air quality expert's  
3 examination." *Id.* at 8144 (emphasis added). Diskin further told the prosecutors  
4 that Haddow was going to "prepare a formal report for disclosure" but was unsure  
5 when he would have it completed. *Id.* This information, which appears  
6 inconsistent with the State's representations that it had not provided Haddow with  
7 any materials and its suggestion that it had not solicited any opinions from  
8 Haddow, was inexplicably *redacted* by the State when it first provided disclosure  
9 on April 4.

- 10 • **June 23, 2010:** According to Haddow's communication log, the Yavapai County  
11 Attorney's Office contacted him on June 23, 2010 to schedule a telephonic  
12 interview for June 30, 2010. *See* Exhibit A, Haddow's Communications Log at  
13 583. However, a calendar entry produced by the State shows Detective Diskin  
14 inviting and Mr. Hughes accepting a telephonic interview with Haddow—noted as  
15 a "potential expert"—on June 23, 2010. *See* Exhibit I, Bate stamp 8099 (calendar  
16 entry).
- 17 • **June 30, 2010:** County Attorney Sheila Polk, Deputy County Attorney Bill  
18 Hughes, and Detective Diskin conducted a telephonic interview of Haddow  
19 regarding his April 29, 2010 report. According to Haddow's notes, the interview  
20 lasted one hour and 8 minutes. *See* Exhibit J, Bate stamp 280. After the  
21 telephonic interview with the prosecutors, Haddow forwarded a copy of his  
22 resume and a blank retainer agreement. *See* Exhibit K, Bate stamp 75; *see also*  
23 Ms. Polk's Notes of 6/30/10 Interview, Exhibit L, at Bate stamp 590 ("Rick  
24 [Haddow] will send us resume & contract")).

1           **B.     The prosecutors' own notes reveal that the State suppressed *additional***  
2                           **exculpatory evidence.**

3           The prosecutors' own notes from the June 30, 2010 interview reveal that the State knew  
4 about, but suppressed, exculpatory evidence *in addition* to the contents of the 4/29/10 email.

5       These facts include the following:

- 6           •   Haddow "believes the hypercapnia pushed people over the edge into death, due to  
7               the hyperthermia conditions." Exhibit M, Mr. Hughes' Notes, at Bate stamp 8103.  
8               "Hypercapnia - this is what pushed them over the edge. Carbon Dioxide pushed  
9               them - major contributing factor." Exhibit L, Ms. Polk's Notes, at 587.
- 10          •   Haddow "thinks a defense expert in Haddow's field would have an engineering or  
11               scientific background, & attack the issue of CO2 toxicity, structure construction &  
12               insulation." Exhibit M, Mr. Hughes' Notes, at 8104. Haddow confirmed that this  
13               was "additional" information (not contained in his 4/29/10 email) he provided to  
14               the prosecutors. He further explained that he was educating the prosecutors on a  
15               defense premised on the construction of the sweat lodge because it was his opinion  
16               that the construction of the sweat lodge was a contributing factor to the deaths.  
17               *See* Exhibit G, Transcript of Interview of Richard Haddow, 4/15/11, at 65:6-17.
- 18          •   Haddow "can talk about the argument that toxins in air or from the sandelwood or  
19               gas from tarps made people ill." *See* Exhibit M, Mr. Hughes' Notes, at 8104.  
20               "Sandalwood - some particulate in the air. Tarps - off-gasing." *See* Exhibit L, Ms.  
21               Polk's Notes, at 589.

22           The evidence thus shows that Mr. Haddow put the State on notice of numerous alternative  
23 causes or contributing factors to the decedents' deaths. This is quintessential *Brady* material.  
24 Notwithstanding its constitutional obligation, the State neither investigated these leads nor  
25 disclosed the information to the Defense prior to last week, when the Court found that a *Brady*  
26 violation had occurred and ordered additional disclosure pursuant to Rule 15.1(g).<sup>4</sup>

27 \_\_\_\_\_  
28 <sup>4</sup> The State may argue that Mr. Haddow identified many factors, including some allegedly controlled by  
Mr. Ray, that contributed to the decedents' deaths. That does not at all lessen the *Brady* violation. What

1           **C.     The State's disclosure violation is part of a pattern.**

2           On April 18, while drafting this motion, the Defense learned of still further disclosure  
3 violations by the State.

- 4           • In its interview of Dr. Mosley on April 18, the Defense learned that, at the State's  
5 request, Dr. Mosley tested Liz Neuman's blood for organophosphates in February  
6 2011. The State had never disclosed the fact of that testing to the defense. This  
7 failure violates Arizona Rule of Criminal Procedure 15.1(b)(4), which requires  
8 disclosure of "the results of . . . scientific tests . . . that have been completed."
- 9           • In a follow-up interview on April 19, Dr. Mosley stated that, when the State  
10 requested the test, he had told the State that the test would be unreliable and a  
11 waste of time and resources, because Liz Neuman had received transfused blood  
12 and because organophosphates dissipate over time.<sup>5</sup> The State failed to timely  
13 disclose this fact, which is exculpatory.
- 14          • The State ultimately did inform the Defense that a laboratory analyst concluded  
15 the results of organophosphate testing done on the blood of James Shore and Kirby  
16 Brown were not reliable, but the State provided this information only *after* opening  
17 statements, thus depriving the Defense of the ability to use this information in  
18 opening.
- 19          • Furthermore, Dr. Mosley's present opinion is that he cannot rule out  
20 organophosphates as a cause of death, and thinks that the Defense expert, Dr. Ian  
21 Paul, "could be correct." Dr. Paul has concluded that the medical evidence is  
22 inconsistent with heatstroke as the cause of death for all three decedents, and is  
23 consistent with a toxin such as organo-phosphates.

24           The Defense does not know what other communications between the State, Dr. Mosley, or  
25 any other witness might reveal regarding the State's knowledge of this exculpatory evidence or

26  
27 matters is that the State knew of alternative causes or contributing factors—information that is exculpatory  
on its face—and suppressed it despite repeated Defense requests.

28           <sup>5</sup> The Defense is preparing a transcript of the 4/19/11 interview and will provide it as soon as possible.



1 potential additional *Brady* material. At the very least, the State's pervasive pattern of late  
2 disclosure or non-disclosure, particularly regarding the issue of causation, renders this trial unfair  
3 and warrants sanctions.

4 **D. Sanctions are warranted.**

5 Rule 15.7(a) provides that, upon motion of a party, the Court "shall impose any sanction it  
6 finds appropriate" based on a disclosure violation. Here, strong sanctions are justified as a result  
7 of the State's repeated violations of *Brady v. Maryland* and Rule 15.1, its inaccurate  
8 representations to the Court and the Defense, and its *continued* failure to make mandatory  
9 disclosures, particularly related to causation.

10 The rule specifically contemplates a sanction more powerful than a continuance: "The  
11 sanctions formerly provided in Rule 15.7(a) were regarded by litigants as ineffective in  
12 compelling compliance with the discovery rules. Judges faced with a failure to disclose routinely  
13 imposed one or both of the first two 'sanctions,' ordering disclosure and granting a continuance.  
14 But these 'sanctions' merely ordered the offending party to do what was already required, and  
15 gave the party more time to do it, a result that the party may have desired in the first place.  
16 Failure to disclose was thus encouraged instead of sanctioned. Under the amendment, disclosure  
17 is no longer regarded as a sanction. The rule now provides that, upon motion, the court shall order  
18 disclosure and may impose any sanction it finds appropriate." Ariz. R. Crim. P. 15.7 cmt.

19 Here, at a minimum, the Court should give each of the jury instructions submitted by the  
20 Defense on April 14 (attached as Exhibit N). *See, e.g., United States v. Burke*, 571 F.3d 1048,  
21 1054 (10th Cir. 2009) ("Where the district court concludes that the government was dilatory in its  
22 compliance with *Brady*, to the prejudice of the defendant, the district court has discretion to  
23 determine an appropriate remedy, whether it be exclusion of the witness, limitations on the scope  
24 of permitted testimony, *instructions to the jury*, or even mistrial." (emphasis added)); *People v.*  
25 *Jackson*, 637 N.Y.S.2d 158 (N.Y. Sup. Ct. 1995) ("the jury will be provided with an adverse  
26 inference charge regarding the *Brady* violation by the People").  
27  
28

1 DATED: April 20, 2011

MUNGER, TOLLES & OLSON LLP  
BRAD D. BRIAN  
LUIS LI  
TRUC T. DO  
MIRIAM L. SEIFTER

THOMAS K. KELLY

By: 

Attorneys for Defendant James Arthur Ray

2  
3  
4  
5  
6  
7  
8  
9 Copy of the foregoing delivered this 20 day  
of April, 2011, to:

10 Sheila Polk  
11 Yavapai County Attorney  
12 Prescott, Arizona 86301

13 by 

10.20.09

4:30 conv. w/ Det. Baskin 4:50

owner of Angel Valley Retreat

Hammons have hired lawyer

→ 928-777-7348 office Luman

→ 928-899-5108 cell - contact

- 15hr (10min)

call Luman for Louis - will go up  
to site w/o sheriff

- Call again to Angel Valley Resort  
to schedule Day visit

(HR) FAV's printouts

- Research Sweet Lodge oxygen

displacement sources

1) 1st Round - Sweet grass - purify energy outside

2nd Round lite sandwood INSIDE

2 Round Sweet grass INSIDE

3 Round Copal Resin

4 Round Bear Root

10.21.09

Mileage O start 09:45am  
207 oneway 3:40 pm

TOTAL 407

.55 per mile

223.85

MEALS

Lunch

Lou Diesel office visit  
15:20 to 15:40

20 min

Lou - Called <sup>center</sup> Bob Brown NY atty  
Beverly Brown

→ called center Bob Macnealy atty

Spoke w/ Det. Brown 4CSO  
will provide loose directives

19 injured

2 hours in sweat lodge

DEFENSE0000559

10.22.09

Data/Internet research

1 Hr

Median/Victim descriptions

1 Hr

Data collection for analysis  
+ Required for modeling

2 Hr

10.23.09

# 1 HR DATA Collection

- met. Condition Sedona Air Port

0915 HRS  
Contacted Staff of Yavapai County air port  
at 928-282-4487; Mgr. Edward McCell  
Referred to Jason @ 928-282-1046  
Jason stated he is not sure how far trial  
date will go, but will look for Oct 8, 2009  
between the time of 12 noon to 5 pm 2009  
1015 Fair ST. County | 235 AIR Terminal Dr.  
Prescott AZ 86305 | SEDONA, AZ 86336

- Question To F.O.

Were any patients intubated

$P_aCO_2$  - Arterial carbon dioxide pressure

VA - Alveolar volume

Number crunching - Equation  
Designs for Air Quality model  
quantitative analysis

10.23.09

10-24-09

Jason - Pav. Conty Sedan H. report  
Called - unable to access new data  
base for met data. Will contact  
Vendor to get password. WCB w/data.

10 min

10.25.09

Human volume displacement  
calculations and models to show  
CO<sub>2</sub> level would be higher  
than in a normally empty room  
for gaseous mixing layers.

30 min

10.26.09

Engineering calculations

Sam 10 years

Ted Schmitt Htz <sup>74 COA</sup>

for Spender  
Sydney

- liver & kidney failure

- was in coma

2 hours

\* Data reduction calculations

- Volume factors

-  $P_{aCO_2}$

- Temp of space - efficiency  
of ability to exchange  $O_2$

- overbreath by 2x when  
 $CO_2 \uparrow$

- physiological condition make the  
body stress and cause more issues



10.27.09

5 min call from Lou Niesel  
about ~~going~~ getting some sound  
bites for his T.V. interview  
20/20 or CNN - not sure

- ~~for go~~ I asked Lou for  
his P's phone number & name

John Calbin

602-320-3095 cell  
602-678-0677 PH

↓  
Called LHM

10.28.09 Camm to John Calby

10.29.09  
15  
5 min  
4400, 5400  
928-771-3260  
1-444  
Det. Baskin  
Camm

Camm John Calby

30 m14

10-29-87 Ent.

Verde Valley Fire Dept. T-44  
Spoke to Chert 928-634-2528

-Chert was incident commander

• Hazmat material team air  
tested.

• Following responded

• Camp Verde fire  
• Cottonwood fire  
• Verde Valley fire  
• Grand Air Amb. heli.  
• 2 more air amb heli.  
• Sedona fire } Amb. responded  
• Lake Mont. }  
Verde Valley }

• Staff reporting: EMS Reports  
REG. Reports

• Chert said they did not go into  
lodge all out by time they  
got there.

10-29-09 Cont. - from above

Civet discarded

Verde Valley Med CTR.

Hqs. Med CTR. - Liz taken  
Flight

- Victims - very critical  
people left scene when to  
living quarters, than felt  
worse

• Fire/med called Pix-Tac  
poison control centers  
and described symptoms to  
try and determine cause and  
method of treatment

10.29.09

Chief described scene

\* Said man with burns fell  
into rock pit.

CONFIDENTIAL  
PERSONAL  
NOTE  
NOT TO BE  
RELEASED

call, then called Lou Doesel.

DEFENSE0000568

10.30.09. Lou Noesel called  
said that John Catton  
doesn't like me.

Lou said he has questioned  
victims & was invited to  
call back victims with new  
questioning. (I thought John Catton)  
was on the case.

Lou said put together  
list of questions for those  
victims and on scene folks

↳ Lou told me he was going  
to email Directors of Lodge  
he said that he would not tell  
where he got the info.

↳ Nov. 9, 2009 People gave Lodge some <sup>more</sup> info <sup>called</sup> details

Nov 1

Put together Questions for  
Lou.

.5  
no drive

Nov 2 Modeling systems  
and supporting equations  
to support Hypothesis  
- Printouts 2 hours

DEFENSE0000570

NOV

5, 2009

.15

Called Sedana airport  
Susan for met data for  
Noon - 5 pm Oct 8, 2009  
Appears their program needs  
a password that  
Am Port ~~STAFF~~ doesn't have

Susan will get data and  
either email or fax

DEFENSE0000571



11-6

Review container deaths

Research .75

---

11-8

Put together notes for  
questions to be answered  
by Lou Diesel. no charge

---

11-12-09

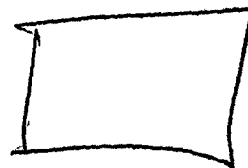
AWOS report from  
Sedona Air Port - Jason

Report Review .5

12/17/04

AND Invoice generated

Summary report



2-2-10 8AM

Spoke w/ Det. Beshin

928-771-3260

Scheduled appointment for  
next Thurs. 12-5

Det. Said they need help  
- \$7K not going to be enough

\* 2-9-10 call Det. Beshin  
~~known~~ Appointment Wed before lunch

DEFENSE0000573

2-10-10 Sheriff office visit

282 miles to interview  
with Sheriff Sgt. Detective  
Ross Diskin

2 HR interview

DVD w/site photos  
w/investigative  
interviews

provided site drawings  
w/measurements.

\* Gave Ross Questions  
Dated 11-8-09

- Victims not sure of  
exact~~th~~ of Rounds.

DEFENSE0000575

Feb-22-09

Begin review of PCSO  
Supplied. Narr - Supplements  
and photos

DEFENSE0000576

2-26-10

Call to Lou about the 129  
Supplements - Narratives  
from YCSO interviews

Also - # photos of search  
(231) warrant

(18) \* Night of incident

~~234~~ (80) Sweat Loge

$$\begin{array}{r} 27 \\ 27 \\ 26 \\ \hline 80 \end{array}$$
$$\begin{array}{r} 429 \end{array}$$

- Called Lou Diesel (man)  
about Narratives & Photos  
from YCSO

3-2-10 - reviewing  
Navv.

3-9-10 Review Navv

3-14-10 Review Navv

3-5-10 spoke w. the  
Ross Diskin Y280  
- Details about case  
and work

• 3-16-10

6 hours review  
Sup Narr



3-16- Cant,

Tread Date Set 8/31

Channel

3-17-10

Contact of CSO Ross Pishing

Rock-species Basic

Antropuers

Spectre quality

4-23-10 - LUMUM Lou's cell - update  
office call - was with client

Prelim. investigation of site conditions  
YCSO interviews (31)+, documentation & Modeling  
photos have provided the following

LIZ was exposed to:

- Hazardous conc. of CO<sub>2</sub>
- Hazardous level of indoor air temp w/ high RH
- Located closest to offset Rock pit
  - ↳ least space between pit & exterior wall
- Located in NEC of lodge, Air Quality would not see air exchange/Ventilation due to the heat barrier between LIZ and the open door.
- Both heat + CO<sub>2</sub> illness will cause the effects experienced by those survivors.
- Highest Heat + CO<sub>2</sub> exposure based on location & the fact LIZ stayed all rounds.
- Sweat lodge construction created a nearly air tight with positive pressure not structure

allowing exchange of ambient outside air.

• LIZ's position <sup>sitting</sup> laying down would lead to the highest conc. of CO<sub>2</sub> in the structure

- \* JAMES share next to LIZ + Kirby Brown there
- \* EXPOSURE to carb. heat + CO<sub>2</sub> would disable LIZ's ability to make her life saving decisions.
- \* JAR wanted the lodge hotter than last yrs. 06-07

400+ Photos

Search warrant - photos

129 narratives - by YCSO

James Stone  
Kirby Brown

~~1/27/95~~

# Statutes of homicide

## - Culpable Mental States:

1st

• INTENTIONALLY

2nd

• KNOWINGLY

3rd

• RECKLESSLY

4th

• NEGLIGENCE

4-23-10

40 min w/ Det. Ross Perkin

Lodge Door faced EAST

NOT South as originally stated

Wed  
June 23, 2010

Tide cart set  
8:30 AM  
Weds 5 June 30th

928-777-7352

- City Atty office call penny  
Lumpkin

- Call to Lou's office

~~Hand~~ note: - Settlement 90%  
want to settle before  
criminal case. Conf.

- told my services needed  
by court, Atty would  
not be paid by his office.

6-27-10

Generate invoice

T

<p>37</p> <p>1 the more reasonable it is for the defense to assume</p> <p>2 the nondisclosure of the evidence does not egg</p> <p>3 /SEUFTD To assume that the nondisclosure of that</p> <p>4 particular item that's been requested suggest that</p> <p>5 it doesn't exist And to make pretrial and trial</p> <p>6 decisions based on this /A assumption That's</p> <p>7 exactly what the defense suffered because of what</p> <p>8 the state did The state had this information and</p> <p>9 made representations to the court and to the</p> <p>10 defense Did not respond to repeated</p> <p>11 ^ requests ^ questions and /PWE made pretrial</p> <p>12 decisions about what motions to file, how to</p> <p>13 position this case, what experts to retain, it</p> <p>14 would be relevant to a medical expert to know that</p> <p>15 perhaps air wasn't circulating in a sick region</p> <p>16 thereby perhaps /EPB /KRAEUS /-G the toxicity of</p> <p>17 whatever /TOBGS /EUPL C O Two or</p> <p>18 organo-phosphates rat /OEUS poison whatever that</p> <p>19 might have been That might have been relevant for</p> <p>20 an expert to look at It also would have been</p> <p>21 relevant for us to do further examination into this</p> <p>22 exact issue Is it true that having an off /EPB</p> <p>23 center fire pit creates a radiant heat barrier 11</p> <p>24 months we would have had to look at that particular</p> <p>25 issue We could have conducted our own</p>	<p>39</p> <p>1 sweat lodges conducted by JRI and I don't know how</p> <p>2 this court would have ruled had a full blown</p> <p>3 investigation into Mr /HA /TKOUZ conclusions, I</p> <p>4 don't know, none of us know We can't turn the</p> <p>5 clock back and look at each of the judgment calls,</p> <p>6 with a different lens because as the court has</p> <p>7 said, repeatedly and appropriately, that, you know,</p> <p>8 the court just calls the issue that's before it</p> <p>9 And there are 403 analyses that may have been</p> <p>10 different had different pieces of information been</p> <p>11 placed /PW-FT court There are rulings that may</p> <p>12 have changed and that may have altered substantial</p> <p>13 portions of this trial had this information been</p> <p>14 placed before the court But the court and this</p> <p>15 jury have been deprived of all of the that Of</p> <p>16 evidence suggesting that whatever Mr Ray did,</p> <p>17 thought, said, believed, may not have had anything</p> <p>18 to do with this hidden design defect that might</p> <p>19 have caused all these deaths There is no way to</p> <p>20 evaluate how this court's rulings might have been</p> <p>21 different and there is no way to turn back the</p> <p>22 clock And none of this Your Honor would have</p> <p>23 happened had the state ^ do not ^ done what it was</p> <p>24 supposed to do can and does closed the Brady</p> <p>25 material on April 29, 2010 when they got it or had</p>
<p>38</p> <p>1 investigation into it We could have drafted</p> <p>2 different motions relating to this exact issue</p> <p>3 Your Honor my opening statement would have been</p> <p>4 different I would have references this report</p> <p>5 The cross-examination /-Z of every single witness</p> <p>6 that high school /A testified would have been</p> <p>7 different As the court has seen in every witness</p> <p>8 we have attempted to touch on the causation issue</p> <p>9 Touch on the knowledge issue And with all of the</p> <p>10 expert and state witnesses we've also attempted to</p> <p>11 Dutch on the touch on the investigation issue.</p> <p>12 /WRORPB this investigation was sound And this is</p> <p>13 particularly true for the medical witnesses that</p> <p>14 Ms Do cross examined This type of information</p> <p>15 would have been critical for that</p> <p>16 cross-examination But more importantly, Your</p> <p>17 Honor, this failure to disclose this particular</p> <p>18 fact has systematically impacted this trial The</p> <p>19 state has advanced to this court and Mr Ray that</p> <p>20 Mr Ray's guilty of manslaughter because of the way</p> <p>21 he conducted his ceremony /AUS a result of that</p> <p>22 representation and theory the state has been</p> <p>23 permitted to introduce evidence about Mr Ray's</p> <p>24 philosophy and teachings About a companions to</p> <p>25 other sweat lodges and about companions to prior</p>	<p>40</p> <p>1 they been more can did with us in our interview of</p> <p>2 Detective Diskin on June 16 2010 or if they had</p> <p>3 been more can did in their 15th disclosure in which</p> <p>4 they state there was no expert no report prepared</p> <p>5 Or if they had responded to any of the for letters</p> <p>6 in a timely manner or if they had responded to the</p> <p>7 court's order in a timely manner of -- the court's</p> <p>8 order of December 1 2010 They did none of those</p> <p>9 None of those things and instead They chose,</p> <p>10 chose to not produce that report They had their</p> <p>11 reasons, but they chose not to do it And case</p> <p>12 after case Your Honor that we ^ sight ^ site ^ cite</p> <p>13 in our brief at the last few pages of our brief,</p> <p>14 I'm saying from page 12 through 13, case after case</p> <p>15 ^ sighted ^ cited by our papers and</p> <p>16 frankly, the right thing to do is to grant, not</p> <p>17 only mistrial, but a dismissal of indictment And</p> <p>18 this court, with this record before it, should</p> <p>19 grant our motion and should do the same Thank</p> <p>20 you, Your Honor</p> <p>21 THE COURT Thank you counsel Mr Hughes</p> <p>22 MR HUGHES Thank you, Your Honor Your</p> <p>23 Honor to begin with I wanted to correct a statement</p> <p>24 in the state's motion or the response to the motion</p> <p>25 We had indicated that Detective Diskin had a first</p>

<p>41</p> <p>1 conversation the first learned about /HA do you</p> <p>2 shortly or some time after the indictment Last</p> <p>3 night the detective was reviewing the indictment.</p> <p>4 Discovered he actually mentioned to the grand jury</p> <p>5 that he had spoken to the environmental quality</p> <p>6 expert So I did want to set that straight as</p> <p>7 far as I believe that was on page 2 of the states</p> <p>8 response. Your Honor, with respect to the merits</p> <p>9 of the motion and the merits of whether a mistrial</p> <p>10 should be granted in this case I think it's</p> <p>11 incredibly important to look at the competing</p> <p>12 authority or the interlock /G authority that</p> <p>13 governs disclosure First of all there is rule 15</p> <p>14 and secondly there is Brady and the /PROBGL</p> <p>15 /SKWREU of cases that discuss Brady With respect</p> <p>16 to Brady, the three elements that Mr He Lee</p> <p>17 focused on are essentially the important /EPL</p> <p>18 /EPLT Was there a none advertise closure Was it</p> <p>19 exculpatory was it material It's the states</p> <p>20 contention with /R-PT to two of the three /EPL</p> <p>21 /EPL Did the /TKPEPBS defense has not</p> <p>22 accomplished or can they establish that a Brady</p> <p>23 violation occurred Specifically the email itself,</p> <p>24 which is attached to the states response It's</p> <p>25 /SRAR clear it's not /KAO*EUBGS exculpatory It's</p>	<p>43</p> <p>1 In this case there is a number of cases</p> <p>2 that are very specific on point from the state of</p> <p>3 Arizona, the the state has</p> <p>4 ^ sighted ^ sited ^ cited throws in its response in</p> <p>5 particular the brace I and the gin /SEPB cases I</p> <p>6 think are /SPROPBT Brace I indicated assuming it</p> <p>7 was in disclosed exculpatory information If it's</p> <p>8 revealed at trial and the defense has an</p> <p>9 opportunity to present it to the jury There is no</p> <p>10 Brady violation. In this case the defense hasn't</p> <p>11 even gun it's case the state is only midway through</p> <p>12 it's case We've only heard testimony so far from</p> <p>13 one witness ^ who is ^ whose been involved in the</p> <p>14 construction Sweat lodge That's Mr Mercer</p> <p>15 Mrs Mercer still on the stand Is still available</p> <p>16 to be cross-examined Mr Mercer can be called</p> <p>17 back if the defense had questions about the</p> <p>18 construction In addition to that, the defense had</p> <p>19 an opportunity to inspect the evidence Mr Li</p> <p>20 argued that the structure was /KES towed What he</p> <p>21 /S-PBTD arguing before it was destroyed YCSO took a</p> <p>22 number of /APL /ALZ /SKUT through the very top the</p> <p>23 big rubber deal as Mr Mercer called it all the way</p> <p>24 to the interior bits of blanket and they did that</p> <p>25 in a number of oh /HRAEUGS /-Z around the sweat</p>
<p>42</p> <p>1 in cull /PA /REUFPLT the state disclosed over eight</p> <p>2 thousand pages in in this case in this particular</p> <p>3 email, was believed to have been disclosed But</p> <p>4 was not The state had originally intended to use</p> <p>5 this expert until we had some questions about maybe</p> <p>6 the extent of his qualifications, but the state had</p> <p>7 intended to use him The information in that</p> <p>8 report is in cull /PA /TREU Each of the factors</p> <p>9 discussed in that report are factors that are</p> <p>10 controlled by Mr Ray The amount of the humidity</p> <p>11 in there The /TPH*UR number of participants that</p> <p>12 leads to the /KRODZ The amounts of heat in there</p> <p>13 Those are all factors that Mr Ray contributed or</p> <p>14 caused the With respect to the /EUPL permanent</p> <p>15 /KWRABL banner that's information that the defense</p> <p>16 already had and that Mr Ray Going into the</p> <p>17 structure would have known about. The information</p> <p>18 in that report and there is a number of bullet</p> <p>19 points Each one points to factors that are</p> <p>20 contributing but not the /KAUSZ of Ms Neuman's</p> <p>21 /PWAEGT Mr Lee argued a number of time That</p> <p>22 report identifies another possible cause of death</p> <p>23 It does not It talks about contributing factors</p> <p>24 Meaning the /KRODZ or the humidity that were were</p> <p>25 not within the structure</p>	<p>44</p> <p>1 lodge Those were made available /TPOT defense for</p> <p>2 testing also the /TKPEPBS was able to actually see</p> <p>3 those when they went out and reviewed the evidence</p> <p>4 in this case Your Honor, brace I in particular</p> <p>5 dealt with the situation where information about a</p> <p>6 witnesses bias was not disclosed to the defense and</p> <p>7 it should have been in the /PWRAEUIZ I case</p> <p>8 However the court found that it was not material</p> <p>9 because there was so much other evidence that was</p> <p>10 already available to the did he against to know</p> <p>11 about that witnesses bias In this particular case</p> <p>12 the factors that are discussed in Mr /HA /TKOUZ</p> <p>13 report is information that has been available to</p> <p>14 the /KE fence from the beginning up through</p> <p>15 recently in this particular case Ask in Detective</p> <p>16 Diskin's interview Characterized Detective Diskin</p> <p>17 art any trying not to talk about /KRODZ Beginning</p> <p>18 on page 40 seven of his interview and that's</p> <p>19 attached where it's marked exhibit in this case</p> <p>20 He talks about /KRODZ poisoning, Ms Do follows up</p> <p>21 with him as to was that a contributing what are the</p> <p>22 factors that you know that could have contributed</p> <p>23 to the death and he says, no, /KRODZ and</p> <p>24 hyperthermia could both have contributed That was</p> <p>25 an interview that occurred back in June of 2010</p>

April 27, 2010

Aspey, Watkins & Diesel, P.L.L.C.  
123 N. San Francisco Street, Suite 300  
Flagstaff, Arizona 86001

Angel Valley Retreat: Neuman-Puckett Case

Dear Lou,

For your review, I have outlined my preliminary environmental investigation and analysis of the sweat lodge indoor air quality and environmental conditions as experienced by Liz Neuman. My determination of the environmental factors which contributed to her death is based on the following findings:

- The lodge maintained hazardous levels of indoor air temperature worsened by saturated air from the application of water onto the heated rock pit. The high relative humidity allowed the stored energy from the rock pit to enter Liz's lungs heating her core. This high relative humidity and temperature created an environmental condition that would not allow Liz's body the ability to self regulate her internal temperature. The environmental condition existed for Liz to cause a hazardous internal temperature leading to hyperthermia and organ failure.
- A contributing cause of Liz's hyperthermia is based on the rock pit's offset of center, closer to the North West section of the lodge where Liz was positioned in the lodge. The radiant heat energy from the rock pit would make this NW section the hottest in the lodge. The participant's space between the rock pit and the exterior wall would be the smallest inside the lodge.
- The NW section in which Liz was positioned experienced hazardous concentrations of carbon dioxide (a condition known as hypercapnia). The NW section of the lodge experienced a radiant heat barrier that would greatly contribute to the section's air stagnation and build up of carbon dioxide. This heat barrier would severely limit Liz's space from being ventilated or affording an air exchange when the door was opened between rounds.
- Liz's health condition was worsened by the length and exposure to both heat and carbon dioxide. Liz never left the lodge or changed her position inside. Participants James Shore and Kirby Brown experienced these same environmental conditions and died. Those other participants who experienced severe illness and hospitalization were also in the same general area as Liz.
- Both hyperthermia and hypercapnia will cause and multiply the adverse effects to the body's ability to self regulate the gaseous components of the blood chemistry, leading to a chemical blood imbalance causing internal organ failure.

**DEFENSE0000084**

- The lodge construction created a nearly air tight structure. The rock pit radiant heat would create positive pressure inside the lodge. This positive pressure would lessen the lodge's ability to exchange inside air to outside ambient air. The lodge door opening would have a small air exchange and heat loss in the area of the door. This heat loss would lessen the participant's exposure to the environmental conditions. Thus, for those participants located between the rock pit and the door, environmental conditions would have differed greatly from those experienced by Liz located between the rock pit and the exterior wall.
- Environmental health effects are based on pollutant concentration, temperature and exposure. For those participants moving from one section of the lodge to another or leaving the lodge all together between rounds, the accumulated effect to their blood chemistry would again, greatly differ from that of Liz and those participants located in her section of the sweat lodge.
- The environmental conditions and exposure length would most certainly impair cognitive function, thereby rendering Liz incapable of reasoning or making sound judgments that would have enabled her to make the decision to remove herself from the lodge for self preservation.

As you know The Yavapai County Attorney's Office has scheduled an August trial date for the criminal case against James A. Ray. Please let me know if you would like me to contribute my efforts to bolster their criminal case.

I have been working closely with Detective Diskin and have been provided all the interviews, photos and working documents. I would be happy to assist you further in any investigative capacity needed, with this or the related cases of the other victims. This is a terrible tragedy, and I am committed to an effort to assist in seeing that justice is served.

Lou, thank you for the opportunity you have given me to be of service to you, the victims, their families and the Sheriff's department. I look forward to your continued success and hope to speak with you soon, your time permitting.

Respectfully,

Rick Haddow  
Haddow Environmental Research Organization  
AZ DPS Business license 1003813  
602-980-5034  
RHaddowPI@earthlink.net



1 BEFORE THE YAVAPAI COUNTY GRAND JURY

2 COUNTY OF YAVAPAI, STATE OF ARIZONA

3 Cynthia Wilson, Foreman

4 ---o0o---

5

6 In the Matter of the )  
Investigation of: )

7 )

8 ) Grand Jury No.

9 ) 156-GJ-17468

10 )

11 ) Superior Court

12 ) No. V1300CR20108-0049

13 JAMES ARTHUR RAY. )

14 )

15 )

16 Arizona License No. 50001

17

18 ---o0o---

19

20 Prescott, Arizona

February 3, 2010

21

22 ---o0o---

23

24 BE IT REMEMBERED THAT, the above-entitled  
25 matter came on regularly for hearing before the Yavapai  
County Grand Jury sitting in regular session, Cynthia  
Wilson, presiding, in Room 307, Yavapai County Courthouse,  
Prescott, Arizona, on February 3, 2010, commencing at  
10:59 a.m.

26

27 The Yavapai County Attorney's Office was  
28 represented by Sheila Sullivan Polk, County Attorney, and  
29 Bill Hughes, Deputy County Attorney in and for the County  
30 of Yavapai, State of Arizona.

31

32 That Sandra K Markham, Certified Court  
33 Reporter in the State of Arizona was duly appointed and  
34 sworn to act as Reporter.

35

36

37

SANDRA K MARKHAM, CR, RPR

OFFICIAL COURT REPORTER

1 a Native American conducting the ritual, so there's no  
2 regulation.

3 JUROR: Jean Tierney. Does anybody have any idea  
4 how hot it actually got inside the sweat lodge?

5 THE WITNESS: No. We're working on trying to  
6 determine that. I actually talked to a guy yesterday that  
7 is an air quality specialist or someone like that and he  
8 is looking into that, but there's a lot of variables,  
9 because we don't know exactly how long the door was open  
10 and things like that. So there are some variables, so it  
11 might be difficult to get the exact heat.

12 JUROR GENEUREUX: You said you called Hazmat and  
13 they took samples. Did they find anything conclusive in  
14 those samples?

15 THE WITNESS: No. They didn't find any hazardous  
16 materials.

17 JUROR: White. You said they went on a 36 hour  
18 vision quest, which was a fasting period and came back --

19 THE WITNESS: Yes.

20 JUROR WHITE: -- in the morning and they had  
21 breakfast, and you said they skipped lunch and then went  
22 into the sweat lodge at three. Was that skipped lunch  
23 part of the program or something that just sort of  
24 happened?

25 THE WITNESS: Well, they were told -- some of the

SANDRA K MARKHAM, CR, RPR

OFFICIAL COURT REPORTER

Questions Regarding the Neuman-Puckett Matter  
Angel Valley Retreat Center  
November 8, 2009

Lou,

To help determine and provide proof to medical experts using the environmental conditions the victims experienced inside the sweat lodge I need the answers to few questions. These questions will help with calculations of contaminant concentrations and other related environmental variables placed on the sweat lodge participants.

With these answers I'll be better able to provide the indoor air quality modeling as it chronologically progressed through the event. The modeling will also show other environmental conditions experienced by the participants including internal sweat lodge temperatures and relative humidity which acts as a multiplier for the body's physiological responses.

Please let me know if you require any additional reasoning for the questions asked. Thank you in advance. I have spoken to the Verde Valley Fire Chief who was the incident commander. He spoke of the scene and related some of his personal experiences. He let me know that he would be willing to be interviewed and share staff reports after the Sheriff's questioning. He told me that all victims were out of the sweat lodge when emergency personnel got on scene.

Let me know if you would like me to help with any questioning of the sweat lodge participants or others.

**SWEAT LODGE**

1. Seating diagram of participants, did people return to the same sitting location between rounds? *Not yet*

2. Measurements and diagram of the sweat lodge including location and size of doorway. *30' high @ 3' base    ^    5mm or less*

3. Construction materials used and their placement order to determine R value. *Turn top layer    2-4 layer of blankets*

4. Did any of the participants lay down to meditate or endure the conditions? *Near all lay down*

*Dream team - Liz, Mark  
(F-6)*

2

*Ted -  
Dana Messer*

### SWEAT LODGE

5. Were the participants physically active inside the lodge? *Sitting still  
Carried out bottles*
6. How many Ray employees attended, I understand Aaron Bennett, a twenty two year old, added hot rocks. I understand a nurse was on site, was she in the lodge and what was her function. Were they employees or volunteers? OSHA laws could factor in with regard to indoor air quality conditions that employees endured with the sweat lodge participants.
7. How were the hot rocks added, one trip or more, how many rocks added each round. *\* Canoe, known 12 rocks first round  
Ray wanted 100 rocks*
8. How big was the original hot rock area and where was it located? *56-58 used*
9. Were any rocks removed? *mostly not  
glowing red hot*
10. How much water was added to the hot rocks each round? -
11. Was there a clear pathway inside from the lodge access door to the hot rock pit? Were any participants seated there? *clockwise to leave*
12. Were any substances of any kind place onto the hot rocks, for example sage or other herbs? - *Sage wood*
13. How tightly did the lodge sides seal to the ground? *tight - rocks placed  
around outside*
14. How many rounds took place and for how long was the access flap open between rounds?
15. Location and proximity to the sweat lodge access point related to the heating fire that was used to heat the rocks being added.
16. Were there any vehicles idling or other type engine generators operating near the lodge? *No*
17. Were there any ventilation holes or other methods used to help exchange air? *No -*

DEFENSE0000453

## SWEAT LODGE

18. When and if participants left the lodge how long did they stay outside the structure? How long did they remain inside at any one time?

19. I would like to determine the number of people inside the lodge during each session.

## VICTIM QUESTIONS

*No taste for food  
Steven Ray 'Lou'*

1. Describe your physiological responses; difficulty in breathing, impaired hearing, nausea, vomiting, strangling sensation, sweating etc. during each round.

2. Can you identify the session/round you became ill? *All through*

3. Where were you seated? Did you stay in the same area for the duration?

4. Were you seated or lying down, if both what percentage of each position?

5. Were you aware of time frames for the sessions/rounds? Was each session schedule on time?

6. Did you see anything placed on the hot rocks? Did you smell any sage or oils? Was there any wood smoke odor inside the lodge from the outside fire?

7. Did you experience any irritating odor?

8. Was there any moisture on the interior wall and ceiling of the lodge?

9. Were you given any breathing directions from Ray? At any time did you start to breathe more quickly? *Laborer*

10. Could you estimate the number of people during each round? Was the last round the largest?

11. Describe your experience when the situation caused the mass exit.

*inner to outer*

12. If you left the lodge, how long were you out of the lodge, and how many times did you leave the lodge.

*LISA Anderson - was nurse not framed*

### VICTIM QUESTIONS

13. For those victims that died or became the most sick, where were they located?

### FIRE DEPARTMENT AND FIRST RESPONDERS

1. Report of rock heating fire, materials used to heat rocks.
2. Size of rock heating fire, and location compared to lodge access door.
3. The Verde Valley fire chief advised me that a Hazardous Materials team conducted air testing. What was determined from that sampling?
4. EMS reporting and records of event.
5. Fire and EMS could describe physiological symptoms of the victims to help determine pollutant concentrations.
6. Any scene photos available?

*Chaos*

Thank you for your consideration,

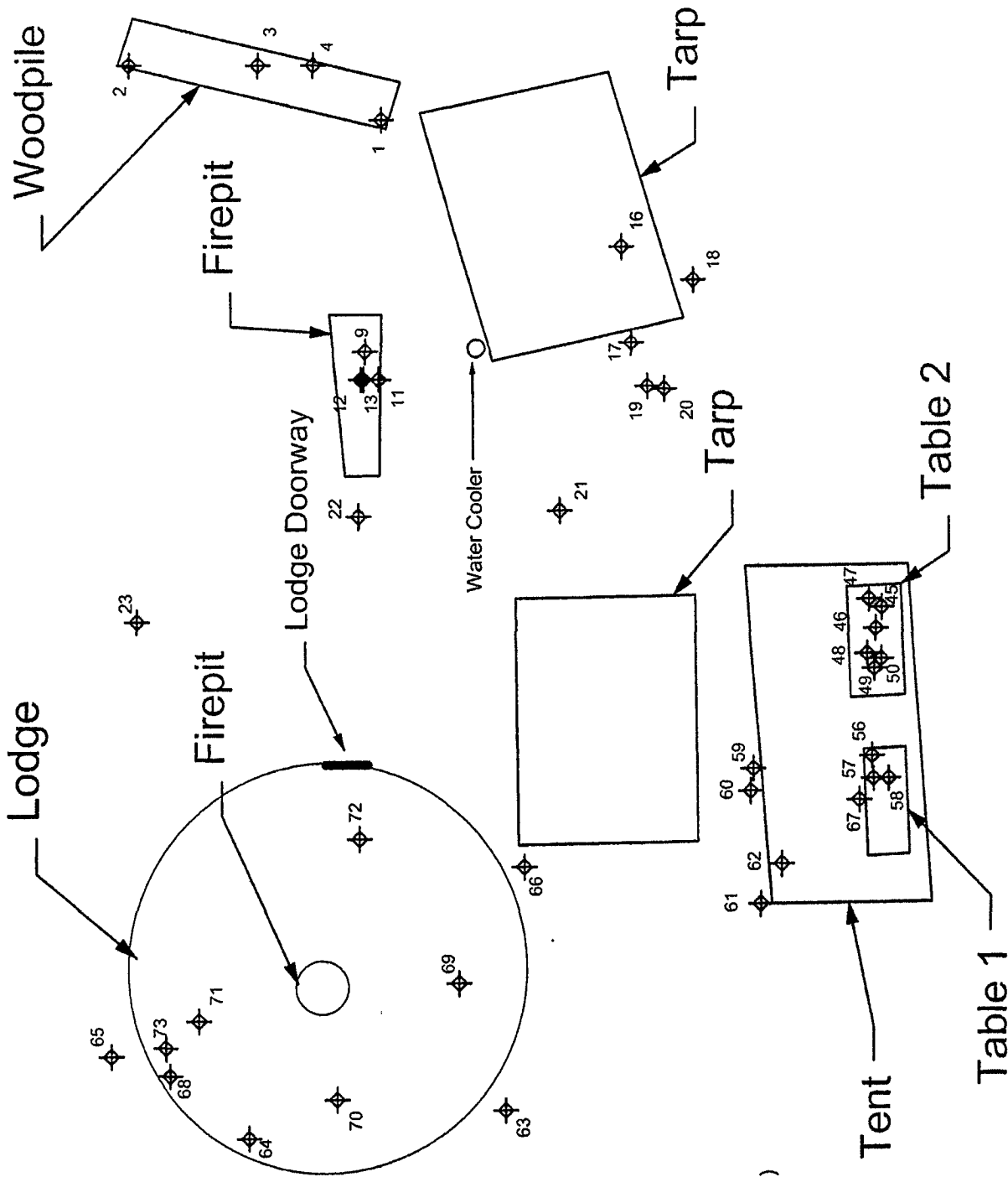
Rick Haddow  
602-980-5034  
FAX 480-759-5009  
Email

*Designed for 75 people*

*Tues Night - Vison Quest  
Wed ~~not~~ no water  
Thurs - some water*

Haddow Environmental Research Organization  
Arizona Department of Public Safety Business License 1003813

DEFENSE0000455



Reference Point (RP)  
N 34 deg. 48.207'  
W 111 deg. 52.606'

NOTE  
Numbered Targets: The number is 'Point'  
number on Evidence Listing page of Scene  
Diagram Measurement Log.

DEFENSE0000456

Case Name: Angel Valley	Title: Scene Diagram
Case No: 09-040205	Drawn by: Det. Sme Page #5430
Address: 13513 Angel Valley Rd.	Date: November 2009
Sedona, AZ 86336	Scale: Not To Scale

COPY

DR. 09-040205

Scene Diagram Measurement Log  
Full Data Point Listing

Date. 10/09/09

Point	Distance*	Distance*	N/S	Point Description**
53	32.09	10.02	S	Table 1: NW corner (west table inside tent)
54	32.09	12.07	S	Table 1: SW corner (west table inside tent)
56	38.08	10.05	S	Evi# 23: Water cooler on table 1; "Lemon water"
57	37.04	10.06	S	Evi# 24: Water cooler on table 1; "Electrolyte"
58	37.04	11.05	S	Evi# 25: drink pitcher on table 1 (behind Evi# 24)
59	38.00	3.04	S	Evi# 26: Water bottle
60	36.08	3.02	S	Evi# 27: Water bottle
61	30.00	3.09	S	Evi# 28: Water bottle
62	32.04	5.00	S	Evi# 29: Backpack
63	17.10	11.07	N	Evi# 30: White pants
64	16.03	27.00	N	Evi# 31: Blue clothing
65	21.02	35.03	N	Evi# 32: Shorts
66	32.03	10.06	N	Evi# 33: Sage
67	36.01	9.08	S	Evi# 34: Cold packs
68	20.00	31.09	N	Evi# 35: Tobacco pouchs (on top of lodge)
69	25.05	14.04	N	Evi# 57: Lodge roof sample, S side
70	18.06	21.08	N	Evi# 58: Lodge roof sample, W side
71	23.03	30.00	N	Evi# 59: Lodge roof sample, N side
72	33.11	20.04	N	Evi# 60: Lodge roof sample, E side
73	21.08	32.00	N	Drag mark at N. edge inside lodge (measured to center of mark)
74	25.02	22.05	N	Firepit inside lodge; center of pit (3' 0" diameter)

\* Measurements. Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

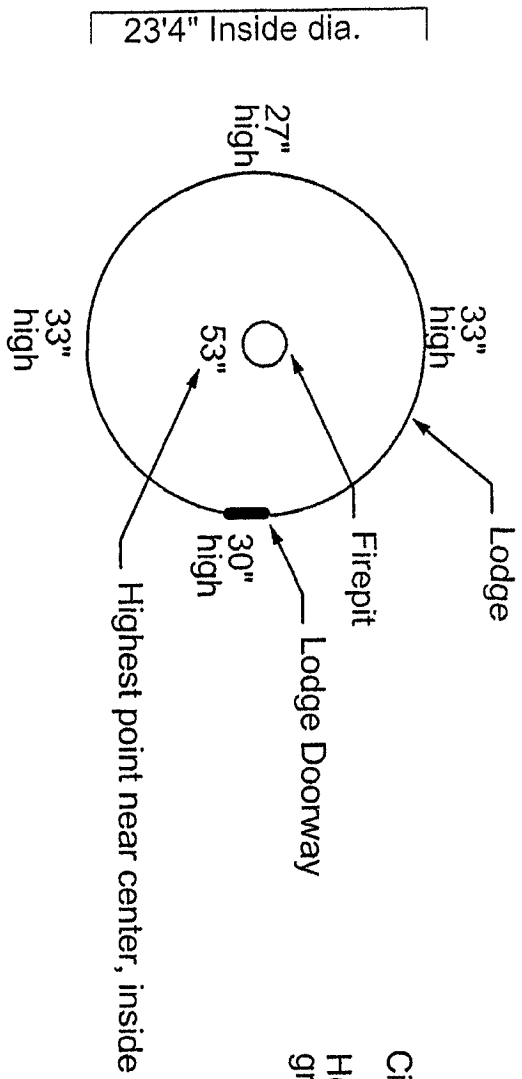
\*\* "Evi# (n)": (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

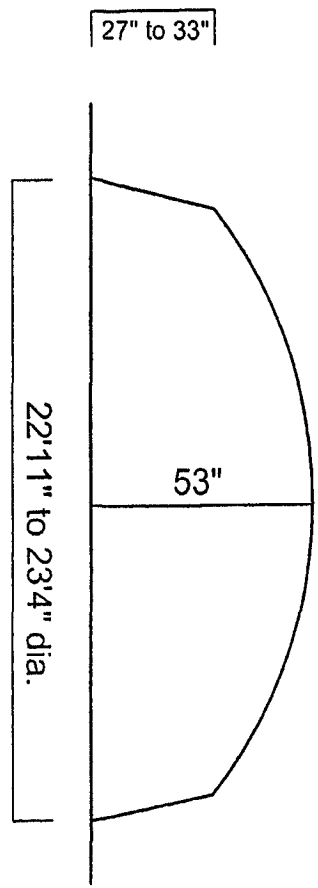
DEFENSE0000457





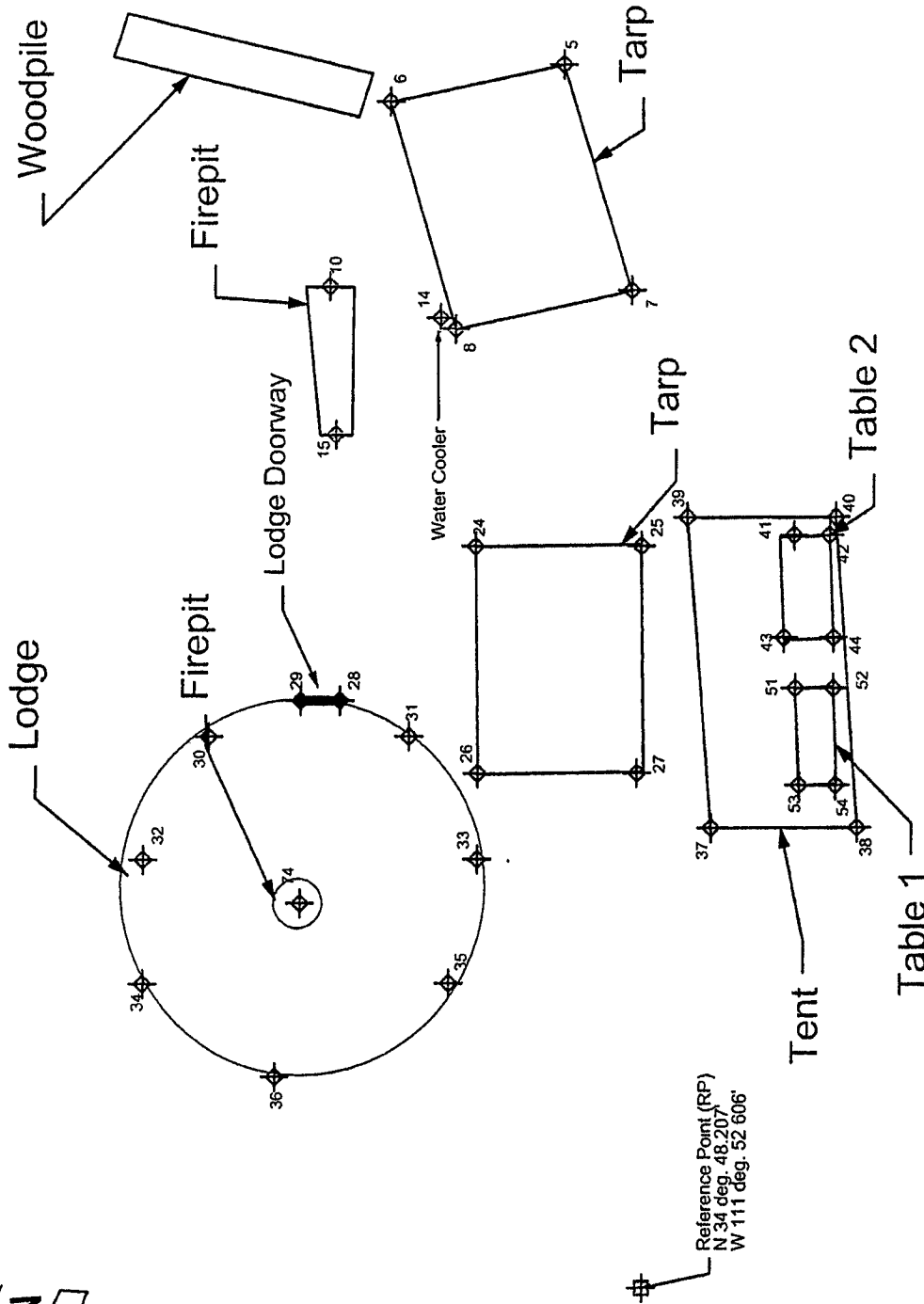
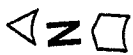
Circumference at base: 73'9"  
 Height measurements are from ground to lower horizontal rail

22'11" Inside dia.



Representative Elevation View

Case Name: Angel Valley	Title: Heights / Elevation View
Case No: 09-040205	Drawn by: Det. Steve Page #5430
Address: 13513 Angel Valley Rd.	Date: Novemb 1, 2009
Sedona, AZ 86336	Scale: Not To Scale



NOTE  
Numbered Targets: The number is 'Point'  
number on Lodge/Tent/Objects Listing page of Scene  
Diagram Measurement Log.

Case Name: Angel Valley	Title: Lodge/Tent/Objects Diagram
Case No: 09-040205	Drawn by: Det. Steele Page #5430
Address: 13513 Angel Valley Rd	Date: November 2009
Sedona, AZ 86336	Scale: Not To Scale

DEFENSE0000459

COPY

DR: 09-040205

Scene Diagram Measurement Log  
Lodge/Tent/Objects Listing

Date: 10/09/09

Point	From RP (East)	From Baseline		Point Description
	Distance*	Distance*	N/S	
RP	0.00	0.00	n/a	Reference Point: N 34 deg 48 207' W 111 deg. 52.606'
5	79.04	5.04	N	Tarp: SE corner
6	76.11	16.08	N	Tarp: NE corner
7	64.09	0.10	N	Tarp: SW corner
8	62.03	12.04	N	Tarp: NW corner
10	65.00	20.07	N	Firepit: Center, E. end; 3'1" width
14	63.00	13.04	N	Water Cooler (center point, 10" inside diameter) Reference only
15	55.05	20.02	N	Firepit: Center, W. end; 2'1" width
24	48.03	11.00	N	Tarp: NE corner
25	48.03	0.02	N	Tarp: SE corner
26	33.07	10.10	N	Tarp: NW corner
27	33.07	0.05	N	Tarp: SW corner
28	38.04	19.10	N	Lodge: East door, S. Edge
29	38.04	22.05	N	Lodge: East door, N Edge
30	36.00	28.05	N	Lodge: Point on NE edge
31	36.00	15.04	N	Lodge: Point on SE edge
32	28.00	32.09	N	Lodge: Point on N edge
33	28.00	10.10	N	Lodge: Point on S edge
34	20.00	32.09	N	Lodge: Point on NW edge
35	20.00	12.08	N	Lodge: Point on SW edge
36	14.00	24.00	N	Lodge: Point near N/S center at West edge
37	30.00	4.05	S	Tent: NW corner
38	30.00	14.00	S	Tent: SW corner
39	50.01	2.10	S	Tent: NE corner
40	50.01	12.07	S	Tent: SE corner
41	48.11	9.10	S	Table 2: NE corner (east table inside tent)
42	48.11	12.02	S	Table 2: SE corner (east table inside tent)
43	42.04	9.02	S	Table 2: NW corner (east table inside tent)
44	42.04	12.05	S	Table 2: SW corner (east table inside tent)
51	39.01	9.11	S	Table 1: NE corner (west table inside tent)
52	39.01	12.05	S	Table 1: SE corner (west table inside tent)
53	32.09	10.02	S	Table 1: NW corner (west table inside tent)
54	32.09	12.07	S	Table 1: SW corner (west table inside tent)
74	25.02	22.05	N	Firepit inside lodge; center of pit (3' 0" diameter)

\* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

DEFENSE0000460

COPY

DR: 09-040205

Scene Diagram Measurement Log  
Evidence Listing

Date: 10/09/09

Point	From RP (East) Distance*	From Baseline Distance*	N/S	Point Description
RP	0 00	0 00	n/a	Reference Point: N 34 deg 48 207' W 111 deg. 52.606'
1	76.06	19.00	N	Evi# 1 - Firewood (effective S. end woodpile)
2	79.09	34.03	N	Evi# 4 - Firewood (effective N. end woodpile)
3	79.09	26.06	N	Evi# 3 - Firewood
4	79.09	23.02	N	Evi# 2 - Firewood
9	62.09	20.00	N	Evi# 5: Firepit Rock
11	61 01	19.02	N	Evi# 6: Firepit Rock
12	61 01	20.03	N	Evi# 7: Firepit Rock
13	61.01	20.01	N	Evi# 8: Firepit Rock
16	69.00	4.07	N	Evi# 9: Water bottle
17	63.03	4.00	N	Evi# 10: Bathing suit
18	67.00	0.03	N	Evi# 11: Black water bottle
19	60.08	3.00	N	Evi# 12: Tobacco pouch
20	60.06	2.00	N	Evi# 13: Blanket
21	53.04	8.04	N	Evi# 14: Tobacco pouch
22	53.00	20.05	N	Evi# 15: Water Bottle
23	46.11	33.09	N	Evi# 16: Black duck
45	47.07	11.00	S	Evi# 17: water bottle on Table 2
46	46.04	10.08	S	Evi# 18: water bottle on Table 2
47	48.01	10.03	S	Evi# 19: water bottle on Table 2
48	44.10	10.02	S	Evi# 20: water bottle on Table 2
49	43.11	10.07	S	Evi# 21: water bottle on Table 2
50	44.06	11.00	S	Evi# 22: water bottle on Table 2
56	38.08	10.05	S	Evi# 23: Water cooler on table 1; "Lemon water"
57	37.04	10.06	S	Evi# 24: Water cooler on table 1; "Electrolyte"
58	37.04	11.05	S	Evi# 25: drink pitcher on table 1 (behind Evi# 24)
59	38.00	3.04	S	Evi# 26: Water bottle
60	36.08	3.02	S	Evi# 27: Water bottle
61	30.00	3.09	S	Evi# 28: Water bottle
62	32.04	5.00	S	Evi# 29: Backpack
63	17.10	11.07	N	Evi# 30: White pants
64	16.03	27.00	N	Evi# 31: Blue clothing
65	21.02	35.03	N	Evi# 32: Shorts
66	32.03	10.06	N	Evi# 33: Sage
67	36.01	9.08	S	Evi# 34: Cold packs
68	20.00	31 09	N	Evi# 35: Tobacco pouchs (on top of lodge)
69	25.05	14.04	N	Evi# 57: Lodge roof sample, S side
70	18.06	21.08	N	Evi# 58: Lodge roof sample, W side
71	23.03	30.00	N	Evi# 59: Lodge roof sample, N side
72	33.11	20 04	N	Evi# 60: Lodge roof sample, E side
73	21.08	32.00	N	Drag mark at N. edge inside lodge (measured to center of mark)

\* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

\*\* "Evi# (n)": (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

DEFENSE0000461

COPY

DR 09-040205

Scene Diagram Measurement Log  
Full Data Point Listing

Date: 10/09/09

Point	From RP (East) Distance*	From Baseline Distance*	N/S	Point Description**
RP	0.00	0.00	n/a	Reference Point. N 34 deg 48.207' W 111 deg. 52.606'
1	76.06	19.00	N	Evi# 1 - Firewood (effective S. end woodpile)
2	79.09	34.03	N	Evi# 4 - Firewood (effective N. end woodpile)
3	79.09	26.06	N	Evi# 3 - Firewood
4	79.09	23.02	N	Evi# 2 - Firewood
5	79.04	5.04	N	Tarp: SE corner
6	76.11	16.08	N	Tarp: NE corner
7	64.09	0.10	N	Tarp: SW corner
8	62.03	12.04	N	Tarp: NW corner
9	62.09	20.00	N	Evi# 5: Firepit Rock
10	65.00	20.07	N	Firepit: Center, E. end; 3'1" width
11	61.01	19.02	N	Evi# 6: Firepit Rock
12	61.01	20.03	N	Evi# 7: Firepit Rock
13	61.01	20.01	N	Evi# 8: Firepit Rock
14	63.00	13.04	N	Water Cooler (center point, 10" inside diameter) Reference only
15	55.05	20.02	N	Firepit: Center, W. end; 2'1" width
16	69.00	4.07	N	Evi# 9: Water bottle
17	63.03	4.00	N	Evi# 10: Bathing suit
18	67.00	0.03	N	Evi# 11: Black water bottle
19	60.08	3.00	N	Evi# 12: Tobacco pouch
20	60.06	2.00	N	Evi# 13: Blanket
21	53.04	8.04	N	Evi# 14: Tobacco pouch
22	53.00	20.05	N	Evi# 15: Water Bottle
23	46.11	33.09	N	Evi# 16: Black duck
24	48.03	11.00	N	Tarp: NE corner
25	48.03	0.02	N	Tarp: SE corner
26	33.07	10.10	N	Tarp: NW corner
27	33.07	0.05	N	Tarp: SW corner
28	38.04	19.10	N	Lodge: East door, S. Edge
29	38.04	22.05	N	Lodge: East door, N Edge
30	36.00	28.05	N	Lodge: Point on NE edge
31	36.00	15.04	N	Lodge: Point on SE edge
32	28.00	32.09	N	Lodge: Point on N edge
33	28.00	10.10	N	Lodge: Point on S edge
34	20.00	32.09	N	Lodge: Point on NW edge
35	20.00	12.08	N	Lodge: Point on SW edge
36	14.00	24.00	N	Lodge: Point near N/S center at West edge
37	30.00	4.05	S	Tent: NW corner
38	30.00	14.00	S	Tent: SW corner
39	50.01	2.10	S	Tent: NE corner
40	50.01	12.07	S	Tent: SE corner
41	48.11	9.10	S	Table 2: NE corner (east table inside tent)
42	48.11	12.02	S	Table 2: SE corner (east table inside tent)
43	42.04	9.02	S	Table 2: NW corner (east table inside tent)
44	42.04	12.05	S	Table 2: SW corner (east table inside tent)
45	47.07	11.00	S	Evi# 17: water bottle on Table 2
46	46.04	10.08	S	Evi# 18: water bottle on Table 2
47	48.01	10.03	S	Evi# 19: water bottle on Table 2
48	44.10	10.02	S	Evi# 20: water bottle on Table 2
49	43.11	10.07	S	Evi# 21: water bottle on Table 2
50	44.06	11.00	S	Evi# 22: water bottle on Table 2
51	39.01	9.11	S	Table 1. NE corner (west table inside tent)
52	39.01	12.05	S	Table 1: SE corner (west table inside tent)

\* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

\*\* "Evi# (n)". (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

DEFENSE0000462

ARS 13-1103

(c) "Recklessly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but who is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

(d) "Criminal negligence" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation

DEFENSE0000463

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SUPERIOR COURT OF STATE OF ARIZONA  
COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

JAMES ARTHUR RAY,

Defendant.

CASE NO. V1300CR201080049

**TRANSCRIPT OF INTERVIEW**

Witness: Richard Haddow

By: Truc Do

Date: 04-15-11

Length: 2:19:01

1 HADDOW: And so...I...I'm...I proactively contacted...make, made all the contacts.  
2 DO: Alright.  
3 HADDOW: And I believe I contacted...actually now I'm starting to recall that I met in  
4 Lou Diesel's office and he provided me Ross Diskin's name, that's how I  
5 got Ross Diskin's name.  
6 DO: And then you subsequently contacted him?  
7 HADDOW: Yes ma'am.  
8 DO: Okay. And your first contact with him, was that by telephone?  
9 HADDOW: Yes.  
10 DO: And you've indicated you would have done that on October 20, 2009?  
11 HADDOW: Correct.  
12 DO: Okay. At any point during the beginning of your relationship with  
13 Detective Diskin did you rather than calling him just show up to the  
14 Sheriff's office unannounced without an appointment?  
15 HADDOW: Never.  
16 DO: Did you at any point without calling him as you indicated on October 20th  
17 '09 just show up to the Sheriff's office with a bunch of papers that you,  
18 you put in front of Detective Diskin?  
19 HADDOW: No.  
20 DO: Okay. So let's talk about then how it was that you began your relationship  
21 and I don't mean relationship in any sort of negative connotation, okay?  
22 HADDOW: Okay. And, and, and just so we're clear. I'm, I'm working on a civil case  
23 and concurrently the Sheriff's working on a criminal case. I'm not  
24 working on their criminal case so...okay.  
25 DO: Right. Okay. And as you're working on a civil case, you were trying to get  
26 information that would help you from the detective, correct?  
27 HADDOW: Correct.  
28 DO: And you were also providing him information that may be helpful to him?



1 HADDOW: Yes.  
2 DO: Okay. And did you tell them that you believed that such an expert would  
3 be someone like you who has an engineering or scientific background?  
4 HADDOW: Yes.  
5 DO: Did you tell them that you believe that such an expert that you would  
6 anticipate the defense hiring would attack the issue of carbon dioxide  
7 toxicity?  
8 HADDOW: Yes.  
9 DO: And also the structure construction, correct?  
10 HADDOW: Yes, yes.  
11 DO: Because you, I believe in your opinions and your conclusions, had reached  
12 that the way in which lodge had been constructed was a contributing cause.  
13 HADDOW: Yes.  
14 DO: Okay and I want to get back to that. So you told....  
15 HUGHES: Stop. Hold on. If I can ask a follow up on that.  
16 DO: Let me finish my line if you don't mind. And then we'll....  
17 HUGHES: Are you moving off of that particular statement?  
18 DO: No I'm not. So when you told the prosecutors in this phone call that you  
19 would if, I mean, let me say this and you tell me if it's right. You were  
20 telling them hey if I were you guys I would anticipate the defense hiring an  
21 expert who's like me, has a background in engineering and a background in  
22 science and that expert for the defense is going to attack carbon dioxide  
23 toxicity and the structure construction, correct?  
24 HADDOW: Yes.  
25 DO: Okay and was that statement provided by you sort of on your own  
26 initiative?  
27 HADDOW: Trying to get a job.  
28 DO: Okay.

# EXHIBIT H

**Penny Cramer**

---

**From:** Bill Hughes  
**Sent:** Wednesday, June 30, 2010 8:26 AM  
**To:** Penny Cramer  
**Subject:** FW: Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

---

**From:** Ross Diskin  
**Sent:** Thursday, April 29, 2010 8:16 AM  
**To:** Kathy Durrer; Sheila Polk; Bill Hughes; Penny Cramer; Mike Poling; Steven Sisneros  
**Subject:** RE: Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

Yes, but I don't know when he will have it completed.

---

**From:** Kathy Durrer  
**Sent:** Thursday, April 29, 2010 8:08 AM  
**To:** Ross Diskin; Sheila Polk; Bill Hughes; Penny Cramer; Mike Poling  
**Subject:** RE: Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

Is Rick going to prepare a formal report for disclosure? K.

---

**From:** Ross Diskin  
**Sent:** Thursday, April 29, 2010 7:41 AM  
**To:** Sheila Polk; Bill Hughes; Kathy Durrer; Penny Cramer; Mike Poling  
**Subject:** FW: Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

Here are the results of the air quality expert's examination. He wanted me to tell the prosecutors that he is available to answer questions and/or testify if needed.

Thanks,

Ross

---

**From:** Rick Haddow [mailto:rhaddowpi@earthlink.net]  
**Sent:** Thursday, April 29, 2010 6:49 AM  
**To:** Ross Diskin  
**Subject:** Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

Ross,

For your review, I have outlined my preliminary environmental investigation and analysis of the sweat

008144

lodge indoor air quality and environmental conditions as experienced by Liz Neuman. My determination of the environmental factors which contributed to her death is based on the following findings:

- The lodge maintained hazardous levels of indoor air temperature worsened by saturated air from the application of water onto the heated rock pit. The high relative humidity allowed the stored energy from the rock pit to enter Liz's lungs heating her core. This high relative humidity and temperature created an environmental condition that would not allow Liz's body the ability to self regulate her internal temperature. The environmental condition existed for Liz to cause a hazardous internal temperature leading to hyperthermia and organ failure.
- A contributing cause of Liz's hyperthermia is based on the rock pit's offset of center, closer to the North West section of the lodge where Liz was positioned in the lodge. The radiant heat energy from the rock pit would make this NW section the hottest in the lodge. The participant's space between the rock pit and the exterior wall would be the smallest inside the lodge.
- The NW section in which Liz was positioned experienced hazardous concentrations of carbon dioxide (a condition known as hypercapnia). The NW section of the lodge experienced a radiant heat barrier that would greatly contribute to the section's air stagnation and build up of carbon dioxide. This heat barrier would severely limit Liz's space from being ventilated or affording an air exchange when the door was opened between rounds.
- Liz's health condition was worsened by the length and exposure to both heat and carbon dioxide. Liz never left the lodge or changed her position inside. Participants James Shore and Kirby Brown experienced these same environmental conditions and died. Those other participants who experienced severe illness and hospitalization were also in the same general area as Liz.
- Both hyperthermia and hypercapnia will cause and multiply the adverse effects to the body's ability to self regulate the gaseous components of the blood chemistry, leading to a chemical blood imbalance causing internal organ failure.
- The lodge construction created a nearly air tight structure. The rock pit radiant heat would create positive pressure inside the lodge. This positive pressure would lessen the lodge's ability to exchange inside air to outside ambient air. The lodge door opening would have a small air exchange and heat loss in the area of the door. This heat loss would lessen the participant's exposure to the environmental conditions. Thus, for those participants located between the rock pit and the door, environmental conditions would have differed greatly from those experienced by Liz located between the rock pit and the exterior wall.
- Environmental health effects are based on pollutant concentration, temperature and exposure. For those participants moving from one section of the lodge to another or leaving the lodge all together between rounds, the accumulated effect to their blood chemistry would again, greatly differ from that of Liz and those participants located in her section of the sweat lodge.
- The environmental conditions and exposure length would most certainly impair cognitive function, thereby rendering Liz incapable of reasoning or making sound judgments that would have enabled her to make the decision to remove herself from the lodge for self preservation.

If you or others require additional information please do not hesitate to contact me.

Respectfully,

008145

Rick Haddow  
Haddow Environmental Research Organization  
AZ DPS Business license 1003813  
602-980-5034  
RHaddowPI@earthlink.net  
Fax 480-759-5009

008146

**Bill Hughes**

---

**From:** Ross Diskin  
**Sent:** Wednesday, June 23, 2010 2:32 PM  
**To:** Bill Hughes  
**Subject:** Accepted: Telephonic Meeting w/Rick Haddow (Potential Expert)

JAMES ARTHUR RAY SEDONA Sweet  
Lodge

620-10 TELE CONF. w/ 4A V. Cty Atty office  
Penny 928-777-~~3~~ 7352

Bill Hayes atty office

Ross Diskin

send cv to - Ross  
-

1 hr 8:00 AM

Ross

DM

C.

DEFENSE0000280

**Debbie**

---

**From:** "Ross Diskin" <ross.diskin@co.yavapai.az.us>  
**To:** "Sheila Polk" <Sheila.Polk@co.yavapai.az.us>; "Bill Hughes" <Bill.Hughes@co.yavapai.az.us>;  
"Steven Sisneros" <Steven.Sisneros@co.yavapai.az.us>; "Kathy Durrer"  
<Kathy.Durrer@co.yavapai.az.us>; "Penny Cramer" <Penny.Cramer@co.yavapai.az.us>  
**Cc:** "Rick Haddow" <rhaddowpi@earthlink.net>  
**Sent:** Wednesday, June 30, 2010 11:56 AM  
**Attach:** cv Richard Haddow 2009.doc; Hero Agency blank agreement.doc  
**Subject:** FW: Background information for Rick Haddow

**From:** Rick Haddow [mailto:rhaddowpi@earthlink.net]  
**Sent:** Wednesday, June 30, 2010 11:56 AM  
**To:** Ross Diskin  
**Subject:** Background information for Rick Haddow

Ross,

Please see my attached resume. Also included is a blank copy of my working agreement.

While working with Maricopa County I had peer review from EPA Region IX and ADEQ. The peer review would evaluate regulatory requirements of air monitoring siting, data, data analysis, Quality Assurance and Quality Control of equipment, standards, protocols, precision and accuracy criteria and data completeness. My peer review (EPA) would authorize the air quality concentrations measured by my staff to be used for both State and Local Ambient Monitors Systems (SLAMS) and the National Ambient Monitoring Systems (NAMS) air quality database (AIRS).

This peer review ensures that the technical and analytical methods use to collect, analyze and report data meet or exceed the requirements of the EPA. This peer review accepts the data collection and methods used to collect the information to certify all data as reliable and accurate to be used for federal and state enforcement of ambient air quality standards. State law makers use this qualified and peer review of my work to determine air quality reduction strategies.

Air quality modeling experts would use my data sets for their air quality modeling, in which they would try to determine issues on how new industry types could influence public health. Peer review of my work ensures those using information collected by my protocols and supervision is true and accurate. All air quality modeling, from highway construction to gas stations and dry cleaners are based on peer reviewed data evaluation and the highly technical requirements of the Code of Federal Regulations.

Currently, both EPA and ADEQ provide peer review for my regulatory requirements and efforts for analytical pollutant measurements, for air quality, water quality and other mitigation requirements. I ensure all federal and state permits are in compliance for their specific activity, peer review is completed by both EPA and ADEQ by document review and inspections.

Please feel free to call with any questions.

4/14/2011

DEFENSE0000075



Sincerely,  
Rick Haddow  
602-980-5034

**DEFENSE0000076**

4/14/2011

Contract  
Resume

6/30/10 Telephonic IV of Rich Hadden: SSP, BOM, Ros  
(SSP comes in later)

Rich would want to:

1) Read all narratives

Hyperthermia - no doubt; main reason

Hypercapnia - this is what pushed them  
over the edge; the environment; built up

CO<sub>2</sub>

- Carbon dioxide pushed them

- major contributing factor

good to explain

the revised past sweet lodges of A

science of

Carbon dioxide pools of to ground.

indicators inside

lodge.

- problem that told them to get closer to ground.

limited ~~control~~ ability

- door opened is not enough to do a good

to make good decisions

- Submarine - 6 yrs.

- Air quality - environmental

- Mar. Corps - air monitoring; set up samples  
for air quality. Forecasting.

- Worked w/ EPA, GDEQ,

Expert witnesses:

- Admin hearings - permits

- Deposed in super fund regulations

IBA Subsea ASH

M.B.A.

1993

@ ASH

Western States -

Private Investigation Agency - licensed  
insurance TOLB

Engineering Industrial  
Classes -

QA/QC

per reviewed

DEFENSE0000587

An Report of Transportation

- Glen District Council

- air, water, cultural

HERO business

never been published.

see Dept to

see how to

grow under

non expansion

QA - wrote manual for Manipal County

- assess the member's establishments

- standard of companies will be supported  
by other documents

April 27 letter - from Ken Desai (?)

Pinal County Emergency Planning Committee

- private citizen

- fire, police, emergency responder + large  
company

up.

- how to respond to chemical fire

- create worst case scenarios

- chemical terrorism

5-6 yrs.

To attach Rick's work:

Pete notes on his hard scanner

Engineering background

- Show

- Inflated values by Rick

- That simple don't expect CO<sub>2</sub> @ that rate

- Structure itself allows to expand

Rick will "reverse engineer" what happened to

these people -

Heat is  
biggest  
issue

-  
Sandalwood -  
some particulate in the air  
Tarps - off-gassing

ME - shows what killed them

→ Hadden

- shows us how CO<sub>2</sub> ~~can~~ + heat +  
moisture caused organ failure
- hypercapnia
- hyperthermia

ME doesn't tell us who caused organs to fail

Daubert

Fees -

\$125/hr.

- is negotiable

\$4000 retained

- wants to meet w/ Ross so he doesn't reinvent the wheel

Peer-reviewed

mid-90's

Set up air monitoring stations throughout MC - 93, 90

Used scientific monitoring - code to determine

where monitors fit -

Then became a component of national system

Wrote report

- Revid by EPA - they codified the standards

Auxiliary  
info. can  
be used  
for reviews.

Rick will send us resume + contact.

6/30/2010  
Rick Haddow III

1. Began environmental air quality experience onboard submarines, for 6 years in USN.
2. Maricopa Co. public health engineer, other air quality positions w/ MC for ~20 years, <sup>quality assurance</sup> manager <sub>monitoring</sub>. He is not published.
3. Worked w/ EPA on air quality studies.  
Worked w/ Phoenix PD & ACD on search warrants involving dangerous indoor air conditions (child in apleb).
4. Opened up a PI business to investigate environmental air quality investigations. He is the "Globe District" Environmental Coordinator for ADOT in charge of ~~as~~ six counties. This is his "day job" responsible for Apache county to border for all air quality issues relating to road construction.
5. He does "modeling" to extrapolate information from data sets.
6. Bachelor of Science in management from AZ State U.  
1973 MBA course completed @ ASU, but no degree.  
Committee member of Pinal County Emerg. Planning Comm.  
Has done graduate work @ ASU in environmental quality.
7. In this case, he looked @ Sedona airport's meteorologic data for day of 5/6. He researched the size of the lodge to figure out the amount of airspace inside, deducted

①

air volume displaced by participants. He went through the police report narratives, focusing on Liz Neuman's case (i.e. where she was positioned, who were next to her - i.e. James & Kirby). He created a chart showing seating location, tracked # of rocks coming inside.

He did not read beyond the 33<sup>rd</sup> narrative.

He "reverse engineered" the amount of heat a glowing red rock produced.

The H<sub>2</sub>O inside was a significant factor

He has testified in it as an air quality expert. Usually in front of an administrative law judge. He has been deposed before.

He has researched a number of container deaths, which had similar conditions to a S/C

Hypercapnia can occur even when there is plenty of oxygen, but when there is too much CO<sub>2</sub> in the air.

There are engineering models available on internet to crunch data coming from a fixed volume of space.

He needs to read all the police reports, all information

Sometimes CO<sub>2</sub> in a high CO<sub>2</sub> environment can actually ~~protect~~ protect the individual

Does not know density of rock, he could do experiment to "reverse engineer" the amount of heat.

He believes the hypercapnia pushed people over the edge into death, ~~but~~ due to the hyperthermia conditions.

He has reviewed past J.R. S/L events

CO<sub>2</sub> is heavier than air & will settle to the ground. The air will be cooler closer to the ground. The ground also absorbs some of the heat. CO<sub>2</sub> is 1.5x weight of air, so it pools on the ground.

The heat from the rocks creates outward pressure that would push out when the flap opened. This pressure explains why people couldn't feel much relief when the flap opened.



The open flap was insufficient to do an effective air exchange

He wrote the 1<sup>st</sup> manual on air quality assurance for Maricopa County. The manual was accepted by EPA.

His standards & statements are supported by medical or other scientific documents

He has not been deposed in the James Ray case. He wrote an April 23<sup>rd</sup> or 28<sup>th</sup> letter (apparently to Cav O'neil). we need to get a copy of it

He is only private citizen on the Pinal Co. Local Emergency Committee.

He thinks a defense expert in Haddow's field would ~~not~~ have an engineering or scientific background, & attack the issue of CO<sub>2</sub> toxicity, structure construction & insulation

He can reverse engineer the victims' symptoms to establish a CO<sub>2</sub> level & temperature level.

He can talk about the argument that toxins in air or from the sealed room or gas from tarps made people ill.

He charges \$125/hour. He can be flexible with it. He works off a \$4K retainer.

In the mid 1990s we had to set up air quality monitoring stations inside Maricopa County. He had to look @ environmental modeling & lots of other data to determine where to put up the stations. He wrote a report justifying his location. The EPA reviewed the report & accepted his conclusions on air quality monitoring & sampling.

# EXHIBIT N

Defense Requested Jury Instructions  
4/14/11

Delay in trial

As you know, this trial was delayed for two days. The delay was necessary for the court to resolve a legal issue regarding the prosecution's violation of its legal duty to disclose evidence. Under the federal Constitution, the Arizona Constitution, and the Rules of Criminal Procedure that govern trials in this State, the prosecution has a duty to disclose to a defendant all evidence in its possession or control that is favorable to the defendant. That disclosure rule is essential to the defendant's right to a fair trial.

In this case, the Court has concluded that the prosecution violated its constitutional duty by failing to disclose, for a period of eleven months, evidence that is "clearly exculpatory" to Mr. Ray, meaning it is clearly favorable to his defense. The Court has further concluded that "the State not only failed to disclose the information, it misrepresented (whether inadvertently or not) that no such information existed." I will give you further instructions regarding the evidence at issue as the need arises during trial.

Suppression of Evidence (to be given after testimony of each relevant witness)

Ladies and Gentleman, you have heard testimony from this witness regarding the suppression of evidence by the State. As I instructed you previously, this Court has concluded that the prosecution violated its constitutional duty by failing to disclose, for a period of eleven months, evidence that is "clearly exculpatory" to Mr. Ray. The Court further concluded that "the State not only failed to disclose the information, it misrepresented (whether inadvertently or not) that no such information existed."

You may consider the fact that the State suppressed the evidence in weighing the evidence offered by the State in this case. You may draw an inference that is unfavorable to the State based on the fact of suppression.

Evidence Regarding Other Sweat Lodge Ceremonies (to be given after testimony of Debra Mercer)

As I have mentioned, only the sweat lodge ceremony held in October 2009 is at issue in this trial. Evidence regarding circumstances at sweat lodge ceremonies prior to October 2009 ceremony is relevant only for limited purposes. The Court has concluded that "despite the large number of participants, there is no substantial medical evidence that any of the persons attending the pre-2009 Spiritual Warrior events suffered a life-threatening condition." As a result, the law provides that any physical conditions that may have been experienced at these prior events, if believed, are not "not sufficiently similar to the medical conditions associated with deaths in 2009" to put a person on notice of a substantial risk of death in 2009.

In accordance with that ruling, you may not consider any evidence regarding prior sweat lodge ceremonies, if believed, to draw any inference regarding Mr. Ray's knowledge of any risk of death in 2009. You also may not consider the evidence regarding prior sweat lodge ceremonies, if believed, to draw any inference regarding Mr. Ray's intent, character, or conduct in 2009. The law also prohibits you from drawing an inference that a person who acted in a certain manner on one occasion is likely to do so again. You may only consider evidence from those prior sweat lodge ceremonies, if believed, as it may relate to whether the State has proven beyond a reasonable doubt that the decedents died of heat stroke and not a different cause, if you find it has a bearing on that question.